

REMARKS

Restriction under 35 U.S.C. 121

I. Election with Traverse

Claims 4-41, 46-88, 91-101 have been cancelled without prejudice. Amended claims 1, 44, and 90 now stand ready for examination. Claims 2, 3, 42, 43, 45, 89, 102, and 103 are pending.

The Office has stated the following:

Applicants state on page 11, lines 14-17 that ...”present invention administered in combination at a low dose, that is, at a dose lower than has been conventionally used in clinical situations.” Further, the antineoplastic agents are classified in different subclass in class 514 and class 424. For example, the antineoplastic agent, doxorubicin is classified in class 514, subclass 34, paclitaxel is classified in class 514, subclass 449, while cisplatin is classified in class 424, subclass 649. Applicants are, therefore required to elect a single enhanced combination of one cyclooxygenase-2 inhibitor with one antineoplastic agent for examination on the merits.

The Office has further stated that:

The several inventions above are independent and distinct, each from the other, as they have acquired a separate status in the art of treating as a separate subject matter for inventive effect and require independent searches. It is noted that a reference to one enhanced combination of drugs would not be a reference to another enhanced combination of drugs under 35 U.S.C. 103. Further, the claims read on a multitude of enhanced combinations of drugs which would require may field of searches that would be an undue burden o the Examiner. Therefore, restriction for examination purposes is proper.

Applicants are required to make a provisional election even though this requirement is traversed.

Applicants elect the combination of gemcitabine as the single antineoplastic agent and, with traverse, Applicants select celecoxib as the single cyclooxygenase-2 inhibitor, for examination on the merits. Support for the election of gemcitabine and celecoxib exist in

many sites throughout the present application. For example, support for the present election can be found in Table 19, on page 156, line 13.

II. Reasons for traverse

Applicants respectfully traverse the restriction for the following reasons:

A. Applicants submit the elected compound, celecoxib, and the non-elected compounds of the claims comprise a single family of compounds having activity as cyclooxygenase-2 inhibitors. The unifying feature of this class of compounds is the cyclooxygenase-2 inhibitory activity which is common to all cyclooxygenase-2 inhibitors of the present invention. Representative compounds of the defined family possess cyclooxygenase-2 activity, as described in the present application on page 33, lines 15 through lines 26, and reads as follows:

The phrase “cyclooxygenase-2 inhibitor” or “COX-2 inhibitor” or “cyclooxygenase-II inhibitor” includes agents that specifically inhibit a class of enzymes, cyclooxygenase-2, with less significant inhibition of cyclooxygenase-1. Preferably, it includes compounds which have a cyclooxygenase-2 IC₅₀ of less than about 0.2 μ M, and also have a selectivity ratio of cyclooxygenase-2 inhibition over cyclooxygenase-1 inhibition of at least 50, and more preferably of at least 100. Even more preferably, the compounds have a cyclooxygenase-1 IC₅₀ of greater than about 1 μ M, and more preferably of greater than 10 μ M.

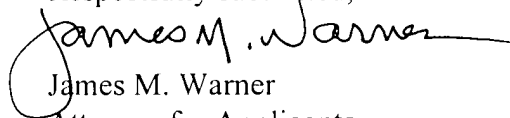
Therefore, the cyclooxygenase-2 compounds are not independent and distinct, each from the other. Accordingly, the Applicants assert that no restriction is appropriate among the compounds recited, and respectfully request that the Restriction Requirement for the cyclooxygenase-2 inhibitors be withdrawn.

III. Election is without prejudice

Applicants submit that the provisional election of gemcitabine from the list of antineoplastic agents, and celecoxib from the list of cyclooxygenase-2 inhibitors is without prejudice to Applicants’ right to file divisional applications directed to the subject matter not contained therein.

If the Examiner believes a telephonic interview with Applicant's representative would aid in the prosecution of this application, she is cordially invited to contact Applicant's representative at the below listed number.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James M. Warner", with a large, stylized initial "J" and a horizontal line extending to the right.

James M. Warner

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